

Superior Court 4 and Magistrate Court new procedures

As we begin to head into the next phase of this pandemic and try to re-establish some procedures that will ensure the Court's business is being done while keeping all who enter the Courts as safe as possible, Magistrate Link and I have done our best to create some policies that we hope will accomplish both goals.

Superior Court 4 has an extremely high volume of cases both criminally and civilly. Hopefully this information will help answer most of your questions as to how we plan to move forward for the foreseeable future.

Due to the fact that one courtroom is on the third floor and very small, the procedures will be broken down by Court as to what procedures will be followed. While the procedures may be slightly different, both the Judge and Magistrate Court will be limiting the number of cases that will be heard in person. Many types of cases will be heard remotely. The civil "hallway hearings" will now be done via phone or zoom or other platform video hearing. The small claims hearings will be set by appointment with the Court. The criminal "cattle calls" will no longer take place either. Attorneys and pro se individuals will again be assigned a time in which to set their hearings. At this time, only initial hearings, dispositions or emergency hearings will be held in person. All status hearings will be heard remotely or via e-filings. While explanations of the Superior 4 procedures is set out below, each Court in the County, due to the type of caseload they have and the size of their courtroom, will create similar procedures to follow. Please make yourselves familiar with both the County building re-opening plan as well each Courts individual plans. The County building re-opening plan can be found at the Laporte County website which is regularly updated.

Courthouse procedure for entering the Courthouse will be as follows for anyone including Attorneys. All people appearing at the Courthouse for hearings or other appropriate matters will have their temperature taken by someone from the health department. Anyone with a temperature of 100.4 degrees Fahrenheit or above will not be allowed entry into the Courthouse. Courthouse security will record the names, addresses and contact information of any Defendants refused entry into the building, and the Court will reset their hearings with notice to the parties. A short series of questions will be asked of all who wish to enter the Courthouse. Face masks will be required to be worn by anyone entering the

Courthouse at all times they are in the Courthouse. Attorneys and parties are requested to bring their own masks to wear in the Courthouse. If anyone with business in the Courthouse does not have a mask, one will be provided to them by Courthouse Security at the door upon entry. Hand sanitizing stations will be available in the building as well to help sanitize hands before and after attending to Court business.

MAGISTRATE COURT

CIVIL/SMALL CLAIMS

Each small claims matter will be assigned a specific time to appear. No more than 4 individuals will be allowed in the Courtroom, in addition to Court staff, at any one time. All parties and witnesses will be instructed to maintain a minimum of 6 feet separation from anyone else in the Courtroom at all times to maintain proper social distancing. In addition, anyone in the Courthouse and Courtroom will be required to wear a face mask. Only parties to the litigation, witnesses and attorneys will be allowed into the Courthouse for any small claims matters. The gallery seating of the Courtroom will be marked with an "X" indicating where any individual will be allowed to sit.

All parties will be required to notify the Court no later than 4 business days prior to any small claims trial or hearing of all individuals that intend to testify in Court. This list will be given to Courthouse security prior to scheduled small claims matters. Only those individuals on the list will be allowed into the Courthouse at the specific time that their case is to be heard by the Court

All parties will have the option to conduct any small claims matter by Zoom, or video conferencing. If any party wants to conduct their small claims matters via Zoom or video conferencing, they are required to contact the Court no later than 4 business days before their scheduled Court time and coordinate the Zoom or video conference with the Court.

Since small claims matters are being scheduled for specific times, all parties, witnesses and attorneys are expected to appear on time. Failure to appear on time may result in the small claims matter being rescheduled or a default being

entered against the tardy party. Pro se individuals may be asked for a phone number and email in case the Court needs to reach them regarding hearings.

CRIMINAL MATTERS

Magistrate Court

Initial hearings and criminal calls will take place each day (M-F) at 12:45 p.m. All incarcerated Defendants will appear by Zoom or other video means for hearings. Incarcerated Defendants will be shown the video of their rights, or they will be given written advisement of their rights by the Laporte County Jail staff prior to their Court appearance. For all other Defendants appearing in person before the Court, the Court will provide their rights in writing which will be read, signed and returned by the Defendant for filing through Odyssey for each case for every appearance.

The Courtroom will remain locked when Court is not in session. A list of names and appearance times will be provided to the Courthouse Security each day before Court begins. Security will advise any Defendants who are appearing in person for Court (those who bonded out prior to their hearing or were summonsed to Court), that only the Defendant and their attorney (if they are represented by Counsel) will be allowed into the Courthouse unless prior approval from the Court is given. A maximum of 4 people, not including Court staff, will be allowed in the Courtroom at any time due to the limited size and space in the Courtroom. Anyone in the Courtroom must maintain at least 6 feet distance from others at all times in order to comply with social distancing requirements.

Any written documents or exhibits that are to be introduced at the hearing are to be submitted to the Court at least 2 business days prior to the hearing. This includes but is not limited to plea agreements. In the cases of Pro-Se defendants, the Prosecutor is responsible for submitting any written Plea Agreements to the Court at least 2 business days prior to the hearing.

Defendants represented by Attorneys

Attorneys will be assigned specific blocks of time for appearances with their clients. Only matters requiring in Court appearances of Defendants and their attorneys will be assigned to criminal calls (i.e. initial hearings, dispositions, sentencings, trial settings and argued matters) and will be heard in Court unless prior approval from the Court is given. All routine matters not requiring the Defendants presence in Court, especially continuances, will be performed by filing through Odyssey. All attorneys are encouraged and allowed to perform hearings not requiring the actual presence of the parties in Court through Zoom or other video conferencing means.

Court status hearings will be set 90 days from the entry of appearance of an attorney. If a disposition has not been reached by the 90-day review date, the Court will grant a final 30 day extension at which time a trial date will be set if no disposition has been reached after the 120 days from entry of appearance of an attorney. Any continuances will need to be submitted to the Court by written motion at least 3 business days before the scheduled hearing date, except in cases of real emergencies.

Pro-Se Defendants.

Pro Se Defendants will be assigned a specific time for appearance at any criminal call of the Court. No more than 4 Defendants will be allowed in the Courtroom at a time, and all Defendants will be required to maintain at least 6 feet from any other person in the Courtroom to comply with social distancing guidelines. The gallery seating of the Courtroom will be marked with an "X" indicating where any Pro-Se Defendant will be allowed to sit while waiting for their case to be called.

Written advisement of rights will be provided to each Pro-Se Defendant. The Pro-Se Defendants will read, sign, and return the written advisement of rights to the Court for filing in Odyssey. In addition, the Pro-Se Defendants will be provided a

writing utensil and the Court date reminder slip to record their next Court date or take any notes. Upon completion of the hearing, the Pro-Se Defendant will be expected to use the supplied cleaning disinfectant provided to disinfect the counsel table and writing utensil.

In addition, there will be one way in and a separate way out of the Courtroom to maintain a one-way traffic flow in the Courtroom. This will prevent unnecessary contact between individuals in the Courtroom and hallways around the Courtroom.

Since all Pro-Se Defendants hearings will be scheduled at specific times, the Pro-Se Defendants are expected to appear in Court on time. Failure to appear on time may result in your case not being called and rescheduled, or a bench warrant may be issued.

SUPERIOR COURT 4 FIRST FLOOR COURTROOM

Many of the same rules that are laid out for the Magistrate Court will also be in place for the downstairs Court. Some practices may be a bit more limited for the Magistrate simply because that Courtroom is smaller and access is more limited because it is on the 3rd floor.

CIVIL

Collections and Small Claims

Small Claims hearings will resume being heard as of June 15, 2020. All hearings will be set by appointment at this time due to the limited space in the Courtroom. All parties will be required to e-file or send copies of any exhibits they intend to use and provide copies to all parties. This will need to be done 4 business days in advance of any scheduled hearing. A list of all parties, witnesses and Attorneys must also be provided to the Court because said list will be provided to

Courthouse Security on the day of the hearing. Due to the limited space and time for these hearings, all parties will be expected to appear on time. Anyone appearing late may have to have their cases rescheduled or a default judgment may be issued if appropriate.

Parties will have the option to schedule their hearing via Zoom if this is agreed to. The parties will then have to coordinate that and schedule it with the Court in advance. A good address and email may also be requested for notice purposes.

1. Creditor/Plaintiff's counsel may file new Proceedings Supplemental with Interrogatories to Employers. The new Proceedings Supplemental shall contain language directing employers to refrain from withholding wages until an actual Garnishment Order is issued and received by the employer. The following language must be included in all new Proceedings Supplemental with Interrogatories to Employers: ***"The Garnishee Defendant shall not withhold from the wages of the employee/defendant until the Garnishee Defendant receives a Garnishment Order from this Court directing the Garnishee Defendant to withhold the wages."***

This language must be contained in the body of the Order to Defendant and Notice and Summons to Garnishee Defendant under the to the Garnishee Defendant paragraph.

2. All Proceeding Supplemental Orders shall contain language explaining the process for Defendants to file Requests for Reduction of the Garnishment Orders. The following language must be contained in the actual Order under the "To the Defendant" portion as follows: ***"If you, the Defendant, believe that you are entitled to a reduction of the Garnishment Order due to financial hardship, you may file a written request to reduce the amount of the garnishment."***
3. All Orders regarding motions for reduction of garnishment shall include the following notice: ***If the Plaintiff files a written Objection to this Motion within seven (7) days of the date of this Order, the Court shall schedule an immediate hearing on the Motion. If the Plaintiff does not timely file an***

Objections, the Defendant's Motion shall be Granted, and the garnishment shall be reduced to ten percent (10%)."

4. The Indiana Supreme Court issued an Order regarding bank garnishments on April 20, 2020. That Order is captioned "In re Petition to the Indiana Supreme Court to Engage in Emergency Rulemaking to Protect CARES Act Stimulus Payments From Attachment or Garnishment from Creditors." The Order states:

6.1. Courts shall issue no new orders placing a hold on, attaching, or garnishing funds in a judgment-debtor's account in a depository institution as defined in the Depository Financial Institutions Adverse Claims Act, I.C. 28-9-1-1, et seq., if those funds are the attributable to a stimulus payment except that this prohibition shall not apply to judgments or orders for payment of child support.

6.2. As for any previously issued court orders placing a hold on a judgment-debtor's account in a depository institution, the judgment-debtor shall be entitled, upon request, to a hearing (either in-person or remotely, as local circumstances permit), within two business days of the court's receipt of said request, to determine what funds in the account are attributable to a stimulus payment and for the judgment-debtor to assert any exemptions(s) under state or federal law. Courts shall treat such hearings as "essential" and "urgent" under this Court's orders of March 16 and 23, 2020 in 20S-CB-123.

Upon the motion of judgment debtors, the LaPorte Superior Court #4 will schedule immediate hearings to determine "if those funds are attributable to a stimulus payment" and for the judgment-debtor to assert any other applicable exemptions.

5. Account/Claims Calendar Hearings. All counsel for Plaintiffs are directed to send written notice to each Defendant who is scheduled to appear on Small Claims Court Account Calendar hearings (Proceeding Supplemental, Rule to Show Cause, and Notice of Claim), informing the Defendant to contact Plaintiff's counsel's office via telephone to conduct the hearing

telephonically. Counsel shall provide the Defendant the date and time that the telephonic hearing will be conducted. Counsel shall provide the Defendant the date and time that the telephonic hearing will be conducted. Counsel shall likewise provide the Defendant with counsel's telephone number and address. Counsel shall conduct the proceeding as they would typically conduct a proceeding on this calendar. Plaintiffs may seek to default Defendants who fail to participate in the telephonic proceeding. Such a request for default must include proof of service of the telephonic proceeding, and a verified statement from counsel for Plaintiff that counsel complied with this protocol and was personally available to accept Defendant's telephone call at the time indicated for the proceeding. However, the Court will not otherwise penalize the Defendant for failure to appear at such a telephonic proceeding; thus, no Contempt Citations or Body Attachments shall issue. The Court shall issue a Garnishment Order upon the Defendant's failure to appear for a telephonic Proceedings Supplemental hearing. Counsel shall continue to file the CCS concerning the results of the hearing. This protocol does not apply to evictions proceedings. They are addressed below.

6. CC Case Hallway Hearings. All counsel for Plaintiffs are directed to send written notice to each Defendant who is scheduled to appear on CC case type Hallway Hearings (Proceedings Supplemental, and Rule to Show Cause), informing the Defendant to contact Plaintiff's counsel's office via telephone to conduct the hearing telephonically. Counsel shall provide the Defendant the date and time that the telephonic hearing will be conducted. Counsel shall likewise provide the Defendant with counsel's telephone number and address. Counsel shall conduct the proceeding as they would typically conduct a proceeding on this calendar. Plaintiffs may seek a Garnishment Order upon the Defendant failure to appear for a telephonic Proceedings Supplemental hearing. However, the Court will not otherwise penalize the Defendant for failure to appear at such a telephonic proceeding; thus, no Contempt Citations or Body Attachments shall issue. Counsel shall continue to file the Proceedings Supplement Report to the Court concerning the results of the hearing. **No in person Hallway hearings with parties will be allowed at this time.**

7. Counsel for Plaintiffs may schedule **contested** Proceedings Supplemental for dates after August 2, 2020.
8. Small Claims Trial Calendar. Evidentiary hearings and trials are conducted in cases involving all types of cases with Small Claims Court jurisdiction, included property claims, injury claims, contract claims, evictions, Orders for Protection, exemption claims, body attachments and requests to reduce wage and bank garnishment orders. All Small Claims trials will be by appointment only. They will need to coordinate with the parties and schedule with the Court on Monday afternoons. No more than ten (10) people will be allowed into the Courtroom. Cases with attorneys will be heard first then followed by Pro-Se cases.
9. **Evictions. AS PER THE SUPREME COURT AND GOVERNOR'S EXECUTIVE ORDER NO EVICTION CASES WILL BE HEARD UNTIL AT LEAST JULY 2020.** Inquiries for Small Claims Court may be emailed to Atucker@laportecounty.org. Telephone inquiries regarding Small Claims cases should be directed to A. Tucker at 219 874 5611 x 7749.

CRIMINAL

Hearings will continue to be heard on Monday and Fridays at 9:00. Due to the fact that the Courtroom gallery can hold no more than 10 people, not including staff and attorneys, hearings will be scheduled in blocks of time. Like the Magistrate Court, these will be initial hearings, dispositions, sentencings, trial settings and matters requiring the Defendant to be present in Court. Any other matters will be heard via Zoom and scheduled for separate settings. Parties are encouraged to set up Zoom hearings with the Court. Again, as with the Magistrate Court, once an Attorney has entered an appearance, another hearing will be scheduled for 90 days following the entry of an Attorney for disposition. If no disposition has been reached by then, a 30-day extension will be granted. If no plea is reached after the 120 days, the matter will be set for trial.

At this time, the Court plans to handle cases with Attorneys first to be followed by Pro-Se Defendant cases. Due to the fact that set times will be scheduled, it will be important for parties to be on time. Failure to appear at the scheduled time may require that the matter be re-set. For Pro-Se Defendants, the Court anticipates using a pager system similar to that used in restaurants to let people know that their case is ready to be heard.

Again, due to the fact that the Commissioners wish to limit the number of people in the Courthouse, all parties will need to be listed ahead of time so that a daily list of cases can be given to Security at the front door. If your name is not on the list, you will not be granted admission to the Courthouse.

ALL INDIVIDUALS WILL BE REQUIRED TO GO THROUGH THE SAFETY SCREENING STATION AT THE FRONT DOOR.

PREPARATIONS ARE ALSO BEING TAKEN TO INSTALL PLEXIGLASS BARRIERS AND OTHER MEANS OF HELPING PEOPLE STAY AS SAFE AS POSSIBLE WHEN IN THE COURTHOUSE.

Finally, we know that these are adjustments from the previous protocols of the Court. We know that some of them will require advance planning and preparation. All of the steps being taken are being done to try to ensure safety for the public, as well as the continuation of court business. Your anticipated cooperation in all these matters is appreciated greatly.